

REMARKS

Claims 1-74 were pending in the Application prior to the outstanding Office Action. With this Amendment, claims 22-24 remain in the case. The canceled claims have been canceled to narrow the issues in the prosecution of this application but may be pursued and one more continuation applications.

The Examiner has objected to the **drawings** because there are handwritten corrections made to some of the figures. However, formal drawings without handwritten corrections were filed with the Response to the Notice of Missing Parts on the 28th of May 2004. Accordingly, this requirement has been complied with.

The Examiner has objected to one reference in the Information Disclosure Statement filed on 28 May 2004 (FR 2312264) under 37 C.F.R. §1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 C.F.R. §1.56(c) most knowledgeable about the content of the information, of the patent listed that is not in the English language. It has been placed in the application file, but the information referred to therein has not been considered.

The Examiner indicated that the lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors, and has requested applicants' cooperation in correcting any errors of which applicants become aware in the specification.

The Examiner has rejected claims 16, 38, 46, 63, 67 and 74 under 35 U.S.C. §112, first paragraph, for failing to comply with the written description requirement.

The Examiner has rejected claims 1-6, 10, 11, 13, 16-27, 31-33, 35, 38-43, 46-52, 56-58, 60, 63-71 and 74 under 35 U.S.C. §102(a,e) as being anticipated by Samuels (US 5,908,435).

The Examiner has rejected claims 7-9, 12, 14, 15, 28-30, 34, 36, 37, 44, 45, 53-55, 59, 61, 62, 72 and 73 are rejected under 35 U.S.C. §103(a) as being unpatentable over Samuels '435, as applied to claims 1, 22, 41, 47 and 69, and further in view of Hart et al. (US 5,868,708).

The Cited Art

The patent to **Samuels** shows a cylindrical catheter body 9 having a longitudinally segmented flexible member 23 at its distal portion. Body 9 is enclosed by an elastomeric membrane sleeve 40 (sleeve 40 not shown in figures 1A and 1B). Distal tip 25 of body 9 has an inflatable cuff 26 which is inflated/deflated through cuff inflation tube 28. In use, a guide wire

44 is positioned within a vessel. The catheter is passed along the guide wire with the aid of a central dilator 50 at its distal end. Once in position, dilator 50 is removed and cuff 26 is inflated, typically to engage the vessel wall. A balloon catheter 60 is guided into position using the guide wire 44 -- typically with balloon 62 being positioned distally of the blood clot 52. Balloon 61 is inflated and pulled to draw blood clot 52 and balloon 61 into the interior of catheter body 9. Cuff 26 is then deflated so that the distal end 25 of body 9 collapses back towards its original size. Balloon 62 is permitted to deflate and the unit is removed from the vessel. Alternatively, balloon 62 may remain inflated and be used to pull blood clot 52 through the entire length of the catheter body 9.

The Cited Art Distinguished

Claim 22 has been amended to incorporate the substance of claim 37 and has also been amended by removing reference to the second expandable and contractible element. Claim 22 now recites a catheter and an expandable and contractible element passable through and positionable near the distal end of the catheter. The expandable and contractible element has been amended to include a braided element and a membrane contacting the braided element. In contrast, the **Samuels** patent discloses a device in which catheter 9 is made from a number of longitudinally extending flexible members 23 connected at their distal ends by an inflatable cuff 26. Inflating inflatable cuff 26 causes catheter 9 of Samuels to assume its radially enlarged state as shown in figures 1B and 3C. In contrast, the invention of claim 22 recites a catheter and an expandable and contractible element passable through and positionable distally of the distal end of the catheter, which Samuels does not show or suggest.

It would not have been obvious to modify catheter 9 of Samuels to replace flexible members 23 with a braided expandable element in light of the **Hart** patent because doing so would, applicant submits, would destroy the structural integrity necessary for catheter 9 of Samuels to act as a catheter. It would not have been obvious to modify catheter 9 of Samuels to supplement members 23 by covering flexible members 23 with a braided expandable element in light of the **Hart** patent because doing so, applicant submits, would not be necessary, would provide no additional functional benefits, and may even affect the operation of catheter 9 in a negative way.

Assuming, for sake of discussion, that it would have been obvious to modify Samuels to incorporate a braided expandable element as disclosed in the Hart patent (by either replacing flexible members 23 with a braided expandable element or covering flexible members 23 with a braided expandable element), the resulting structure would be, at best, an expandable and contractible catheter, not the presently claimed invention including a catheter and an expandable and contractible element passable through and positionable near the distal end of the catheter. Accordingly, claim 22 is allowable over the cited art.

The **dependent claims** are directed to specific novel subfeatures of the invention and are allowable for that reason as well as by depending from novel parent claims.

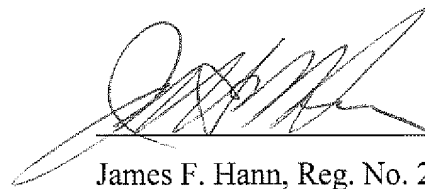
CONCLUSION

It is respectfully submitted that this application is now in condition for allowance, and such action is requested. If the Examiner believes a telephone conference would aid the prosecution of this case in any way, please call the undersigned at (650) 712-0340.

The Commissioner is hereby authorized to charge any fee determined to be due in connection with this communication, or credit any overpayment, to our Deposit Account No. 50-0869 (GTEC 1001-4).

Respectfully submitted,

Dated: 9 February 2007


James F. Hann, Reg. No. 29,719

HAYNES BEFFEL & WOLFELD LLP
P.O. Box 366
Half Moon Bay, CA 94019
(650) 712-0340 phone
(650) 712-0263 fax